January 27, 2006

SENATE BILL No. 340

DIGEST OF SB 340 (Updated January 26, 2006 11:13 am - DI 113)

Citations Affected: IC 4-15; IC 5-10.3.

Synopsis: Salary and PERF protection for state employees. Provides that the state's salary and wage schedules must provide that an appointing authority is not required to reduce the salary of an employee who is demoted, unless the appointing authority determines that the salary reduction is warranted for disciplinary reasons or other good cause. Establishes a process to withdraw state employees from the public employees' retirement fund (fund) and allow certain state employees to retire when the employees' particular departmental, occupational, or other classifications are terminated from state employment as a result of: (1) a lease or other transfer of state property to a nongovernmental entity; or (2) a contractual arrangement with a nongovernmental entity to perform certain state functions. Establishes the funding sources for the amounts that the state is required to contribute to PERF for the purchase of up to 24 months of creditable service needed by a terminated employee who elects normal or early retirement.

Effective: December 31, 2005 (retroactive).

Wyss, Long, Kruse, Miller, Lawson C, Landske, Merritt, Zakas, Paul, Nugent, Rogers, Craycraft, Lewis, Broden, Lutz L, Becker, Young R Michael, Bowser, Dillon

January 10, 2006, read first time and referred to Committee on Pensions and Labor.
January 19, 2006, reported favorably — Do Pass. Reassigned to Senate Committee on Appropriations.
January 26, 2006, amended, reported favorably — Do Pass.

January 27, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 340

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-15-1.8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: Sec. 7. (a) The department shall do the following:

(1) Develop personnel policies, methods, procedures, and standards for all state agencies.

(2) Formulate, establish, and administer position classification plans and salary and wage schedules, all subject to final approval by the governor.

(3) Allocate positions in the state agencies to their proper classifications.

(4) Approve employees for transfer, demotion, promotion, suspension, layoff, and dismissal.

(5) Rate employees' service.

(6) Arrange with state agency heads for employee training.

(7) Investigate the need for positions in the state agencies.

(8) Promulgate and enforce personnel rules.

(9) Make and administer examinations for employment and for

promotions.

(10) Maintain personnel records and a roster of the personnel of all state agencies.

(11) Render personnel services to the political subdivisions of the state.

(12) Investigate the operation of personnel policies in all state agencies.

(13) Assist state agencies in the improvement of their personnel procedures.

(14) Conduct a vigorous program of recruitment of qualified and able persons for the state agencies.

(15) Advise the governor and the general assembly of legislation needed to improve the personnel system of this state.

(16) Furnish any information and counsel requested by the governor or the general assembly.

(17) Establish and administer an employee training and career advancement program.

(18) Administer the state personnel law, IC 4-15-2.

(19) Institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs or improve the quality of state agencies.

(20) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit to the governor measures to secure greater efficiency and economy, to minimize the duplication of activities, and to effect better organization and procedures among state agencies.

(21) Establish, implement, and maintain the state aggregate prescription drug purchasing program established under IC 16-47-1, as approved by the budget agency.

(b) Salary and wage schedules established by the department under subsection (a) must provide:

(1) for the establishment of overtime policies, which must include: ~~the following~~

~~(1)~~ **(A)** definition of overtime;

~~(2)~~ **(B)** determination of employees or classes eligible for overtime pay;

~~(3)~~ **(C)** procedures for authorization;

~~(4)~~ **(D)** methods of computation;

~~(5)~~ **(E)** procedures for payment; **and**

~~(6)~~ **(F)** a provision that there shall be no mandatory adjustments to an employee's established work schedule in order to avoid the payment of overtime; **and**

(2) that an appointing authority is not required to reduce the salary of an employee who is demoted, unless the appointing authority determines that the salary reduction is warranted for disciplinary reasons or other good cause.

(c) The state personnel advisory board shall advise the director and cooperate in the improvement of all the personnel policies of the state.

(d) The department shall establish programs of temporary appointment for employees of state agencies. A program established under this subsection must contain at least the following provisions:

(1) A temporary appointment may not exceed one hundred eighty (180) working days in any twelve (12) month period.

(2) The department may allow exceptions to the prohibition in subdivision (1) with the approval of the state budget agency.

(3) A temporary appointment in an agency covered by IC 4-15-2 is governed by the procedures of that chapter.

(4) A temporary appointment does not constitute creditable service for purposes of the public employees' retirement program under IC 5-10.2 and IC 5-10.3. However, an employee who served in an intermittent form of temporary employment after June 30, 1986, and before July 1, 2003, shall receive creditable service for the period of temporary employment.

SECTION 2. IC 5-10.3-6-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: **Sec. 8.7. (a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are terminated from employment with the state as a result of:**

(1) a lease or other transfer of state property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (i), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

(1) is at least fifty (50) years of age; and

(2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The governor has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsection (g).

(g) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (h) sufficient to pay the member's contributions required for the member 's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(h) The amounts that the state is required to contribute to the

fund under subsection (g) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (g).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (g), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (g) in the next biennial state budget.

(i) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 3. **An emergency is declared for this act.**

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 340, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is made to Senate Bill 340 as introduced.)

HARRISON, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senators Kruse, Miller, Lawson C, Landske, Merritt, Zakas, Paul, Nugent, Rogers, Craycraft, Lewis, Broden and Lutz be added as coauthors of Senate Bill 340.

WYSS

SENATE MOTION

Madam President: I move that Senators Becker, Young R Michael, and Bowser be added as coauthors of Senate Bill 340.

WYSS

SENATE MOTION

Madam President: I move that Senator Dillon be added as coauthor of Senate Bill 340.

WYSS

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 340, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 25, delete "only".

Page 3, line 25, delete "if:" and insert "**when**".

Page 3, line 26, delete "(1)".

Page 3, run in lines 25 through 26.

Page 3, line 29, delete "(A)", begin a new line block indented and insert:

"**(1)**".

Page 3, line 31, delete "(B)", begin a new line block indented and insert:

"**(2)**".

Page 3, line 32, delete ";" and insert "**.**".

Page 3, line 33, delete "(2) the state requests", begin a new paragraph and insert:

"**(b) The governor shall request**".

Page 3, line 34, delete "; and" and insert "**whenever an employee of the state is terminated as described in subsection (a).**".

Page 3, line 35, delete "(3) the", begin a new paragraph and insert:

"**(c) The**".

Page 3, line 35, delete "approves" and insert "**must approve**".

Page 3, line 35, before "request" delete "the" and insert "**a**".

Page 3, line 35, delete "." and insert "**from the governor under subsection (b) unless approval violates subsection (i), federal or state law, or the terms of the fund.**".

Page 3, line 36, delete "(b)" and insert "**(d)**".

Page 3, line 41, delete "(c)" and insert "**(e)**".

Page 4, line 8, delete "(d)" and insert "**(f)**".

Page 4, line 12, delete "state" and insert "**governor**".

Page 4, line 20, delete "fully".

Page 4, line 20, delete "subsections (e) and" and insert "**subsection**".

Page 4, delete lines 21 through 34.

Page 4, line 35, delete "subsection (e)" and insert "**subsection (f)**".

Page 4, line 36, delete "subsection (d)," and insert "**subsection (f),**".

Page 4, line 41, after "IC 5-10.2-3-1.2" insert "**and payable from the sources described in subsection (h)**".

Page 5, between lines 9 and 10, begin a new paragraph and insert:

"**(h) The amounts that the state is required to contribute to the**

fund under subsection (g) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (g).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (g), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (g) in the next biennial state budget.".

Page 5, line 10, delete "(h)" and insert "**(i)**".

and when so amended that said bill do pass.

(Reference is to SB 340 as introduced.)

MEEKS, Chairperson

Committee Vote: Yeas 9, Nays 0.